

## DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS FOR FISCAL YEAR 2014

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U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.*

### NONDEPARTMENTAL WITNESS

[The following testimony was received by the Subcommittee on Homeland Security for inclusion in the record. The submitted material relates to the fiscal year 2014 budget request for programs within the subcommittee's jurisdiction.]

#### PREPARED STATEMENT OF THE NATIONAL TREASURY EMPLOYEES UNION

Chairman Landrieu, Ranking Member Coats, distinguished members of the subcommittee; thank you for the opportunity to provide this testimony. As president of the National Treasury Employees Union (NTEU), I have the honor of leading a union that represents over 24,000 Customs and Border Protection (CBP) officers and trade enforcement specialists who are stationed at 331 land, sea and air ports of entry (POEs) across the United States.

NTEU applauds the administration's fiscal year 2014 budget that recognizes that there is no greater roadblock to legitimate trade and travel efficiency than the lack of sufficient staff at the ports. Understaffed ports lead to long delays in our commercial lanes as cargo waits to enter U.S. commerce. NTEU strongly supports the fiscal year 2014 budget request for a total of 3,477 new CBP officer hires at the air, sea and land ports of entry—1,600 paid for by an increase of \$210.1 million in fiscal year 2014 funding and 1,877 paid for by an increase in customs and immigration user fees that have not been increased since 2001.

For years, NTEU has maintained that delays at the ports result in real losses to the U.S. economy. According to the U.S. Department of the Treasury, more than 50 million Americans work for companies that engage in international trade and, according to a recent University of Southern California study, "The Impact on the Economy of Changes in Wait Times at the Ports of Entry", dated April 4, 2013, for every 1,000 CBP officers added, the United States can increase its gross domestic product by \$2 billion. If Congress is serious about job creation, then Congress should support enhancing U.S. trade and travel by mitigating wait times at the ports and enhancing trade enforcement by increasing CBP security and commercial operations staffing at the air, sea, and land ports of entry and increase the CBP appropriation to the level requested in the administration's fiscal year 2014 budget submission.

NTEU was heartened to see that there was no decrease in CBP officer overtime funding as there has been in previous budget submissions. Overtime is essential when CBP officer staffing levels are insufficient to ensure that inspectional duties can be fulfilled, that officers have sufficient back-up and that wait times are mitigated. In CBP's own words, "Overtime allows OFO to schedule its personnel to cover key shifts with a smaller total personnel number." This is one reason that Congress authorized a dedicated funding source to pay for overtime—customs user fees, pursuant to title 19, section 58c(f) of the U.S. Code.

NTEU strongly supports the increase of the immigration and customs user fees by \$2 each to fund the hiring of an additional of 1,877 CBP officers. CBP collects user fees to recover certain costs incurred for processing, among other things, air and sea passengers, and various private and commercial land, sea, air, and rail carriers and shipments. The source of these user fees are commercial vessels, commercial vehicles, rail cars, private aircraft, private vessels, air passengers, sea pas-

sengers, cruise vessel passengers, dutiable mail, customs brokers and barge/bulk carriers. These fees are deposited into the customs user fee account. Customs user fees are designated by statute to pay for services provided to the user, such as inspectional overtime for passenger and commercial vehicle inspection during overtime shift hours. User fees have not been increased in years and some of these user fees cover only a portion of recoverable fee-related costs. In 2010, CBP collected a total of \$13.7 million in commercial vehicle user fees, but the actual cost of commercial vehicle inspections in fiscal year 2010 was over \$113.7 million—a \$100 million shortfall.

Increasing the immigration inspection user fee by \$2 to allow CBP to better align air passenger inspection fee revenue with the costs of providing immigration inspection services, is also supported by the Government Accountability Office (GAO). According to GAO (GAO-12-464T, page 11), fee collections available to ICE and CBP to pay for costs incurred in providing immigration inspection services totaled about \$600 million in fiscal year 2010, however, “air passenger immigration fees collections did not fully cover CBP’s costs in FY 2009 and FY 2010.”

NTEU is opposed to the \$16 million cut in the fiscal year 2014 budget for the Foreign Language Award Program (FLAP), established by the 1993 Customs Officer Pay Reform Act (COPRA), which allows employees who speak and use foreign language skills on the job to receive a cash award if they use the language for at least 10 percent of their duties and have passed the competence test. FLAP is fully funded by customs user fees. Also, under COPRA, Congress made FLAP funding a priority because not only do language barriers delay processing of trade and travel at the ports, for these law enforcement officers, communication breakdowns can be dangerous. Since its implementation in 1997, this incentive program, incorporating more than two dozen languages, has been instrumental in identifying and utilizing CBP employees who are proficient in a foreign language. Qualified employees are also eligible for awards for use of languages of special interest, such as Urdu, Farsi and Arabic that have been identified as critical foreign languages in support of CBP’s anti-terrorism mission.

NTEU also supports GAO recommendations aimed at more fully aligning Agriculture Quality Inspection (AQI) fee revenue with program costs (see GAO-13-268). According to GAO, in fiscal year 2011, CBP incurred 81 percent of total AQI program costs, but received only 60 percent of fee revenues; whereas the Animal, Plant Health Inspection Service (APHIS) incurred 19 percent of program costs but retained 36 percent of the revenues. In other words, APHIS covers all its AQI costs with AQI fee revenues, while CBP does not. AQI user fees fund only 62 percent of agriculture inspection costs with a gap of \$325 million between costs and revenue. To bridge the resulting gap, CBP uses its annual appropriation. NTEU also supports CBP’s efforts to establish an agriculture specialists resource allocation model to ensure adequate CBP agriculture specialist staffing at the POEs.

Finally, NTEU supports CBP’s study of land border fee options and an active review of all other existing fee rates to ensure that they are set at a level that recovers the full cost of performing “fee-related” inspection services.

CBP has a dual mission of safeguarding our Nation’s borders and ports as well as regulating and facilitating international trade. Since CBP was established in March 2003, however, there has been no increase in CBP trade enforcement and compliance personnel. NTEU is concerned that the fiscal year 2014 budget, rather than increasing full-time equivalents (FTEs) for CBP trade operations personnel, proposes to cut 21 trade operations positions including 14 rulings and regulations staffers who are responsible for promulgating regulations and rulings, and providing policy and technical support to CBP, DHS, Treasury, Congress, and the importing community concerning the application of Customs laws and regulations.

NTEU urges the Committee not to cut CBP trade operations staff, but to increase funding to hire additional trade enforcement and compliance personnel, including import specialists, at the POEs to enhance trade revenue collection.

NTEU commends the Department for increasing the journeyman pay for CBP officers and agriculture specialists. Many deserving CBP trade and security positions, however, were left out of this pay increase, which has significantly damaged morale.

NTEU strongly supports extending this same career ladder increase to additional CBP positions, including CBP trade operations specialists and CBP seized property specialists. The journeyman pay level for the CBP technicians who perform important commercial trade and administration duties should also be increased from GS-7 to GS-9.

CBP continues to be a top-heavy management organization. In terms of real numbers, since CBP was created, the number of new managers has increased at a much higher rate than the number of new frontline CBP hires. According to CBP’s own numbers, a snapshot of CBP workforce demographics in September 2012 shows that

the supervisor to frontline employee ratio was 1-to-6 for the CBP workforce, 1-to-6.2 for CBP officers and 1-to-6.9 for CBP agriculture specialists.

The tremendous increase in CBP managers and supervisors has come at the expense of national security preparedness and frontline positions. Also, these highly paid management positions are straining the CBP budget. With the increase of potentially 3,477 new CBP officer new hires, NTEU urges that CBP return to a more balanced supervisor to frontline employee ratio.

NTEU strongly urges Congress to end the sequester. Under sequestration, CBP's salaries and expenses (S&E) discretionary and mandatory accounts must be reduced by \$512 million including a \$75 million cut in CBP user fee accounts. On March 26, the President signed a continuing resolution (CR) to fund the Government through the end of the fiscal year. The CR does not cancel the sequester. Congress did provide some additional funding for the CBP S&E account in the CR, but also required CBP to maintain the current CBP officer staffing level. Maintaining current staffing floors means CBP cannot use all of the increased funding in the CR to reduce furloughs for current employees since it must continue to fill vacant positions.

Prior to enactment of the CR, the CBP sequester plan required all CBP employees to be furloughed up to 14 days during the remainder of fiscal year 2013 or 1 day per pay period beginning early to mid-April through September 30. With the additional funding included in the CR, however, there may be a reduction in the number of furlough days that all CBP employees must take before the end of the fiscal year. In light of the new funding bill, CBP is re-evaluating previously planned furloughs, and has postponed implementation of furloughs pending that re-examination.

#### RECOMMENDATIONS

Funding for additional CBP staff must be increased to ensure security and mitigate prolonged wait times for both trade and travel at our Nation's ports of entry. Therefore, NTEU urges the Committee to end the sequester and include in its fiscal year 2014 DHS appropriations bill:

- funding to increase CBP officer staffing at the ports of entry to the level in the administration's fiscal year 2014 budget submission;
- funding to increase agriculture inspection and trade enforcement staffing to adequately address increased agriculture and commercial trade volumes; and
- funding to extend enhanced pay and retirement recognition to additional CBP personnel, including import and other commercial operations specialists, CBP-seized property specialists and CBP technicians.

The more than 24,000 CBP employees represented by NTEU are proud of their part in keeping our country free from terrorism, our neighborhoods safe from drugs and our economy safe from illegal trade, while ensuring that legal trade and travelers move expeditiously through our air, sea and land ports. These men and women are deserving of more resources to perform their jobs better and more efficiently.

Thank you for the opportunity to submit this testimony to the Committee on their behalf.

COLLEEN M. KELLEY,  
*National President.*